

for a family. The “payment standard” is the maximum monthly subsidy payment.

(b) *Amount of monthly housing assistance payment.* The PHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of:

(1) The payment standard for the family minus the total tenant payment; or

(2) The gross rent minus the total tenant payment.

(c) *Payment standard for family.* (1) The payment standard for the family is the lower of:

(i) The payment standard amount for the family unit size; or

(ii) The payment standard amount for the size of the dwelling unit rented by the family.

(2) If the PHA has established a separate payment standard amount for a designated part of an FMR area in accordance with § 982.503 (including an exception payment standard amount as determined in accordance with § 982.503(b)(2) and § 982.503(c)), and the dwelling unit is located in such designated part, the PHA must use the appropriate payment standard amount for such designated part to calculate the payment standard for the family. The payment standard for the family shall be calculated in accordance with this paragraph and paragraph (c)(1) of this section.

(3) During the first 24 months of the HAP contract term, the payment standard for a family is the higher of:

(i) The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraphs (c)(1) and (c)(2) of this section, minus any amount by which the initial rent to owner exceeds the current rent to owner; or

(ii) The payment standard, as determined in accordance with paragraphs (c)(1) and (c)(2) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

(4) After the first 24 months of the HAP contract term, the payment standard for a family is the payment standard for the family as determined in accordance with paragraphs (c)(1)

and (c)(2) of this section, as determined at the effective date of the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

(5) At the next regular reexamination following a change in family size or composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:

(i) Paragraph (c)(3)(i) of this section does not apply; and

(ii) The new family unit size must be used to determine the payment standard.

(d) *PHA approval of higher payment standard for the family as a reasonable accommodation.* If the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, in accordance with part 8 of this title, the PHA may establish a higher payment standard for the family within the basic range.

[64 FR 26649, May 14, 1999, as amended at 64 FR 56914, Oct. 21, 1999; 65 FR 16822, Mar. 30, 2000]

#### § 982.506 Negotiating rent to owner.

The owner and the family negotiate the rent to owner. At the family's request, the PHA must help the family negotiate the rent to owner.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999]

#### § 982.507 Rent to owner: Reasonable rent.

(a) *PHA determination.* (1) The PHA may not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent.

(2) The PHA must redetermine the reasonable rent:

(i) Before any increase in the rent to owner;

(ii) If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or

(iii) If directed by HUD.

(3) The PHA may also redetermine the reasonable rent at any other time.

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(4) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA.

(b) *Comparability.* The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider:

(1) The location, quality, size, unit type, and age of the contract unit; and

(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

(c) *Owner certification of rents charged for other units.* By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999]

## § 982.508 Maximum family share at initial occupancy.

At the time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.

[64 FR 59622, Nov. 3, 1999]

## § 982.509 Rent to owner: Effect of rent control.

In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also may be subject to rent control limits under State or local law.

[63 FR 23861, Apr. 30, 1998. Redesignated and amended at 64 FR 26648, May 14, 1999]

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### § 982.510 Other fees and charges.

(a) The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

(b) The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(c) The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999]

### § 982.514 Distribution of housing assistance payment.

The monthly housing assistance payment is distributed as follows:

(a) The PHA pays the owner the lesser of the housing assistance payment or the rent to owner.

(b) If the housing assistance payment exceeds the rent to owner, the PHA may pay the balance of the housing assistance payment ("utility reimbursement") either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

[63 FR 23861, Apr. 30, 1998, as amended at 64 FR 56914, Oct. 21, 1999; 65 FR 16822, Mar. 30, 2000]

### § 982.515 Family share: Family responsibility.

(a) The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

(b) The family rent to owner is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner.

(c) The PHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share, including the family rent to